



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 11, 1998

Mr. Kevin Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-1896

Dear Mr. Pagan:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117419.

The City of McAllen (the "city") received a request for certain specified offense reports. You assert that the reports are protected from disclosure under the Texas Family Code and under section 552.108 of the Government Code. The records at issue were submitted to this office for review.

The submitted offense reports concern juvenile offenders and conduct occurring in 1996 and 1998. Open Records Decision No. 644 (1996) held that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. However, juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. The relevant language of amended Family Code section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records, and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Section 58.007(c) of the Family Code applies to juvenile law enforcement records concerning conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. However, Open Records Decision No. 644 (1996), as it interpreted

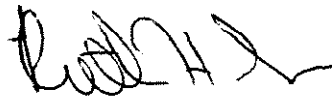
the prior law, still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997.

Offense report numbers 98-11217 and 98-5635 that involve juvenile conduct occurring in 1998 are protected from disclosure under section 58.007(c) of the Family Code. However, the other reports at issue concern juvenile conduct that occurred in December of 1996, and are not confidential under section 58.007(c). Thus, we will address your section 552.108 argument against release of the 1996 offense reports.

You assert that each of these reports is protected from disclosure under section 552.108(a)(1), which provides an exception from disclosure if "release of the information would interfere with the detection, investigation, or prosecution of crime." You assert that the reports concern ongoing investigations and that release of records in an ongoing investigation would interfere with the detection, investigation, and prosecution of crime. However, you also provided information that states that each of the 1996 investigation files is closed. As these are closed files and you argue only that sections 552.108(a)(1) and 552.108(b)(1) are applicable on the basis of ongoing investigations, section 552.108 is inapplicable and the 1996 reports at issue must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 117419

Enclosures: Submitted documents

cc: Mr. Fransico Flores, Jr.
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(w/o enclosures)